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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,956	04/24/2001	Patrick Gaston Joseph Boeuf	FR919980086US1	5642

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IBM Corporation  
Intellectual Property Law, Dept. 917  
3605 Highway 52 North  
Rochester, NY 55901

EXAMINER

PESIN, BORIS M

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/840,956

**Applicant(s)**BOEUF, PATRICK GASTON  
JOSEPH**Examiner**

Boris Pesin

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)      5) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_      6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

1. The abstract of the disclosure is objected to because there is claim language used.

All instances of "means" must be removed (Lines 11 and 16).

Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "shaking" in claims 1, 4, 5, 6, 7, 8, 9, and 10 is a relative term which renders the claims indefinite. The term "shaking" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Shaking is a general word that can be construed in numerous different ways; therefore, for the purpose of this action the word shaking is being defined as any moving of the mouse.

3. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "small window" in claims 4 and 5 is used by the claim to mean "message box", while the accepted meaning is "a portion of the screen that can contain its own document". The term is indefinite because the specification does not clearly redefine the term.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oran et. al. (US 5920316) in view of Kaehler et al. (US 5515496).

4. In regards to claim 1, it is inherent in Oran's invention that the following limitations are present; a data processing system comprising at least a processing unit capable of executing simultaneously a number of application programs, a memory for storing said application programs, a display subsystem for displaying on a screen a plurality of windows associated respectively with a plurality of application programs, each window being able to overlay partially or totally one or several windows already displayed on said screen, and a mouse for moving a cursor to a selected location of the said screen. Further Oran discloses a displaying means for displaying on the screen a focus buoy, (i.e. icon, Figure 19, element 126), associated with each window, at the same time the window is displayed on the screen. Further in regards to claim 1, it is inherent in Oran's invention that a table exists in memory for storing for each window the coordinates of the location at which the buoy, or icon, associated with the window is displayed. Oran also discloses the functionality of being able to click on any of

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the displayed buoys, or icons, to get the focus of the window (Column 5, Line 7).

Oran does not teach the ability to display the buoy at each location defined in a table in response to shaking, or moving of the mouse. Kaehler teaches that "... the user causes the edit handles to appear by merely directing the pointer of the pointing device at the selected display object (known as "mouseover" in the art), or by directing the pointer at the selected display object and moving it in a specified manner, such as by wiggling without clicking it (known as "gesturing")..." (Column 7, Line 46). Kaehler explains that one is able to assign responses, such as clicking, to certain actions such as wiggling the mouse. It would have been obvious to one of ordinary skill in the art at the time of the invention to use Kaehler's teaching and modify Windows NT, to include an option where the user has to wiggle the mouse to instigate an action of displaying all the buoys, or icons, in order to give the user the ability to see all the open windows without having to click any of the mouse buttons.

5. In regards to claim 2, it is inherent in Oran's invention that there is a table for each of the windows displayed on the screen and the identification of the associated application program, and a pointer to the corresponding window and the location of the focus buoy associated with the window.

6. In regards to claim 3, it is inherent in Oran's invention, that the table includes an alternative location for the focus buoy used to display the focus buoy if the main location is the same as location of a focus buoy associated with a window being already displayed on the screen. In Oran's invention the buoys, or the icons, go on the toolbar in order that the window is opened. If a window was

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already opened then the next window's buoy is located next to the opened window's buoy (Figure 10B, Elements 34-48).

7. In regards to claim 4, Oran's invention discloses that the buoys, or icons, contain a message box to define what the icon, or buoy, represents. (Figure 19, Element 126)

8. Claim 5 is in the same realm as claim 4, it is therefore rejected under similar rationale.

9. In regards to claim 6, based on Kaehler's teachings as presented in rejection for claim 1, wiggling of the mouse, or shaking of the mouse can be associated with any action, including displaying the window associated with a focus buoy after the focus buoy has been selected and clicked by using the mouse which is taught by Oren (Column 5, Line7).

10. Claim 7, is in the same realm as claim 6; it is therefore rejected under similar rationale.

11. In regards to claim 8, based on Kaehler's teachings as presented in rejection for claim 1, wiggling of the mouse, or shaking of the mouse can be associated with any action, including removing the focus buoys, or icons, displayed on the screen which is taught by Oren (Column 8, Line 22).

12. Claim 9 is the same realm as claim 8; it is therefore rejected under similar rationale.

13. In regards to claim 10, based on Kaehler's teachings as presented in rejection for claim 1, wiggling of the mouse, or shaking of the mouse can be associated with any action, including removing the windows from the screen

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when the focus buoys, or icons, are displayed on the screen which is taught by Oren (i.e. Minimize all windows, Column 8, Line 33).

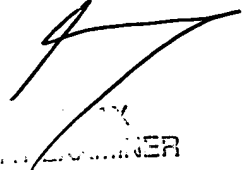
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US006215490B1	Kaply
US006133898A	Ludolph et al.
US006133918A	Conrad et al.
US005920316A	Oren et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boris Pesin whose telephone number is (703) 305-8774. The examiner can normally be reached on Monday-Friday with the exception of every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (703) 308-0640. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

  
PRIMARY EXAMINER